

REMARKS

Applicants note that the Examiner has based her restriction requirement on claims 1-9 as originally filed with the above identified application on January 10, 2001. However, a Preliminary Amendment was filed with the application on January 10, 2001 canceling claims 1-8 and replacing them with new claims 9-24.

A second Preliminary Amendment was filed on September 17, 2003, when Applicants discovered that the replacement claims added by Preliminary Amendment on January 10, 2001 were incorrectly numbered, *i.e.*, the first new claim should have been designated claim 10 rather than claim 9.

A telephone call was made to Examiner Pak on March 22, 2004 to discuss the fact that the Restriction Requirement was based on the originally filed claims rather than the claims added by Preliminary Amendment. As suggested by Examiner Pak, Applicants have included herewith copies of the Preliminary Amendments as filed, as well as the return postcards. Applicants respectfully request entry of said Preliminary Amendments into the file history of the instant application.

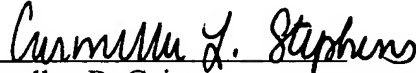
Response to Restriction Requirement

The Examiner has stated that the claims of the present application encompass two different inventions. In particular, the Examiner has restricted the claims into:

Group I, Claims 1-7, which are drawn to a DNA construct comprising a COX-2 gene fused to a reporter gene, a vector comprising said DNA and host cells comprising said vector; and

Group II - Claim 8, which is drawn to a method of using the DNA construct of Group I.

In response to this restriction requirement, Applicants elect to pursue the claims of Group I in this application without prejudice to the prosecution of the subject matter of non-elected claims in other patent applications. The claims of group I include claims 1-7 as originally filed, or claims 10-24 as set forth in the Preliminary Amendment of September 17, 2002.

  
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